

MEMO

DATE: October 10, 2005

TO: The Regional Council

FROM: Charlotte Pienkos, Government Affairs Analyst
Phone: (213) 236-1811 E-Mail: pienkos@scag.ca.gov

SUBJECT: State Legislature End of Session Update

SUMMARY:

The State Legislature has adjourned for the year and will not reconvene until Wednesday, January 4, 2005. SCAG made concerted efforts throughout the 2005 session to influence the enactment of new laws or the amendment of existing laws in the areas of housing, transportation, and the environment. This update highlights the end of session outcomes in housing and land use reform, eminent domain, the Bay Bridge fix, Proposition 42, GoCalifornia and transportation bond measures, container fees, conversion technology and CEQA reform. The final disposition of bills and constitutional amendments on which SCAG took positions in 2005 can be found in the State and Federal Legislative Matrix.

BACKGROUND:

Housing and Land Use Reform

SCAG has participated in the Housing Element Working Group (HEWG) since its inception and continued to do so in 2005. Discussions were conducted over many months with representatives of the building industry in an effort to identify changes to the housing approval process and new sources of funding that cities need to pay for local services and infrastructure. These reform discussions are still ongoing, and will continue throughout the fall and into next year.

One housing measure supported by SCAG was enacted. SB 575 (Torlakson) amends the Planning and Zoning Law to restrict the conditions under which an affordable housing projects can be disapproved. Courts may impose fines for actions in bad faith.

Related to the subject of housing reform was the Administration's decision to allocate \$5 million in State Planning and Research (SP&R) funds to regional blueprint planning and reimbursement for work on the Regional Housing Needs Assessment. Although the Governor ultimately line item vetoed the use of SP&R funds for non-transportation related purposes, namely the RHNA reimbursement, an administrative solution is expected that will assist SCAG and ABAG in the performance of the RHNA. Workshops are currently underway to clarify the application process for regional blueprint planning grants, and SCAG has been attending them in anticipation of submitting an application.

Eminent Domain

In late June, the United States Supreme Court decided in Kelo vs. City of New London that the city could use eminent domain to take privately owned homes for the development of a privately



**SOUTHERN CALIFORNIA
ASSOCIATION of GOVERNMENTS**

000043

owned business complex. The decision stirred legislatures across the country, including the California State Legislature. Senator Tom McClintock (R-Thousand Oaks) and Assemblymember Dough La Malfa (R-Richvale) introduced SCA 15 and ACA 22 respectively to prohibit the use of eminent domain to acquire any property not thereafter owned and occupied by a government agency. The twin measures were vigorously opposed by the League of California Cities and did not advance in light of that opposition and in the face of waning bipartisan support. Senator McClintock may attempt to qualify SCA 15 as an initiative measure in 2006.

Two virtually identical measures, AB 1162 (Mullin) and SB 1026 (Kehoe), would have imposed a two-year moratorium on the use of eminent domain for owner-occupied housing, during which time the state would undertake a study of how eminent domain was applied in California. The measures appeared to gain momentum during the final days of the Session, but eventually stalled.

Bay Bridge

AB 144 (Hancock) was enacted on July 18th to fund the Bay Area Bridges costs overrun. AB 144 set the state's contribution toward funding the overrun at \$630 million, including 1) \$300 million to fund the cost of demolishing the eastern span of the San Francisco-Oakland Bay Bridge from the State Highway Operations and Protection Program (SHOPP), project savings, and the federal Highway Bridge Replacement and Rehabilitation Program (FHBRR) and 2) \$330 million derived from \$130 million in Caltrans efficiencies, \$125 million in "spillover" state gasoline sales tax revenues, and \$75 million from the Motor Vehicle Account. Other revenues to close the cost overrun gap will be raised with tolls and refinancing savings.

While the state's contribution of \$630 million is a sizeable sum of money, this figure is substantially more favorable to Southern California than previous potential liabilities proposed under other funding scenarios. SCAG's regional transportation planning partners are still evaluating the effect of this cost-sharing on their short- and long-range plans.

Proposition 42

The Legislature passed and the Governor signed an FY05-06 State Budget that fully funded Proposition 42 to the amount of \$1.3 billion. Pursuant to existing law, the \$1.3 billion will be allocated as follows:

- \$678 million to the Traffic Congestion Relief Fund for Traffic Congestion Relief Projects (TCRP)
- \$254 million to the Transportation Investment Fund for State Transportation Improvement Program (STIP) projects
- \$254 million to cities and counties for local streets and roads (\$127 million to cities, \$127 million to counties)
- \$127 million to the Public Transportation Account, with half (\$63.5 million) of those funds available for STIP projects and half (\$63.5 million) for the State Transit Assistance (STA) Program

The full funding of Proposition 42 was a major legislative success for all California transportation stakeholders; more work remains to be done, however, to amend the State Constitution to prohibit future suspensions of transfers from the General Fund to transportation projects and programs in times of financial crisis. This amendment, called a firewall, appears to be the transportation community's first priority for the 2006 session.

GoCalifornia and Transportation Bond Measures

The Governor advocated on behalf of GoCalifornia, his transportation package, until the last days of the 2005 legislative calendar when it became apparent that Senate President Pro Tempore Don Perata (D-Oakland) was unwilling to de-couple consideration of his \$7 billion transportation bond measure (SB 1024) from consideration of GoCalifornia. Business, Transportation and Housing Department Secretary Sunne McPeak explained in late session meetings that the Governor insisted on separating GoCalifornia from any bond measure, preferring to effect administrative cost-savings first before taking a bond measure to the voters. Both sides have said that transportation will be a priority in 2006.

In the last days of session, SCAG was asked by Secretary McPeak to provide technical support for an amendment to AB 850 (Canciamilla), the public/private partnership (PPP) bill in GoCalifornia. SCAG submitted its suggestions to BT&H as requested after circulating it to the commissions and AAA. Although the recommendations were not amended into AB 850, given the impasse between the Governor and Senator Perata, the Administration may build on those ideas during the interim as a basis for 2006 negotiations.

Container Fees

SCAG carefully monitored the progress of SB 760 (Lowenthal) in 2005. The bill, which imposed a \$30 container fee on every twenty-foot equivalent unit passing through the Ports of Long Beach and Los Angeles, advanced quickly through the Senate and eventually stalled in the Assembly Appropriations Committee when Senator Lowenthal, reacting to resistance from shippers and some commercial interests, converted SB 760 into a two-year bill.

Consequently, the senator will resume work on the bill in January. Following adoption of the findings of the report, SCAG may be able to assist Senator Lowenthal in his drafting of amendments by sharing with him the results of the Port and Modal Elasticity Study presented to the TCC today.

Conversion Technology

SCAG supported the enactment of AB 1090 (Matthews) in the 2005 session. The bill, which redefined conversion technologies in an effort to increase post-recycling diversion from landfills, met resistance in the Assembly Natural Resources committee and stalled. Interim hearings are planned on the subject.

CEQA Reform

SCAG participated in the 2005 CEQA Working Group. Among members of the group, which included representatives from the Administration, the Legislature, cities, environmental groups, and the building industry, there are commonly held beliefs on streamlining and the exercise of

CEQA within streamlined alternatives. No specific, detailed proposal on CEQA streamlining emerged in the session, however, and the effort will continue in 2006. SB 832 (Perata), the working group's vehicle for amendment, is currently in the Assembly Inactive File and eligible passage in the 2006 carryover session.

CP#113953